



## GIVENS LAW FIRM

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**Privileged Attorney/Client  
Confidential Communication**

TO: Oenga Heirs  
FROM: Raymond C. Givens *RG*  
DATE: August 25, 2015  
RE: 2016 Rents  
Interior Decision on Petition  
Attorney Fees Payment

**Purpose** – The purposes of this memo are to discuss:

- The amount of the rent to be paid by BP this October for 2016, your individual share of that rent payment, and the amount of attorney fees you owe under our contract.
- Interior's recent Decision on the Petition regarding payment of those attorney fees due.
- Your options regarding payment of the attorney fees owed.

**BP 2016 Rent Adjustment for Rents Paid in 2015** – Under the 2012 Settlement Agreement, BP must pay, by October 15, annual rent on your Heald Point Allotment for the next year. The rent amount is the base rent of \$650,000 + the federally calculated cost of living adjustment. The formula for calculating this year's total rent payment is:

$$\text{\$650,000 (base rent)} \times \frac{238.638 \text{ (June 2015 CPI)}}{225.722 \text{ (June 2011 CPI)}} = \text{\$687,193.54 (total due 10/15/2015)}$$

BP sent a letter on July 20, 2015 which *misstated* the amount due by several hundred dollars. I pointed out their error. They corrected the error. See attached letters and email.

Interior - BIA and OST [Office of the Special Trustee] - apparently never checks to see if BP is paying the correct amount, because they never caught this error or any of BP's prior errors. I will always check to make sure BP pays the correct amount.

**Your Individual 2015 Rent Payment & Attorney Fees Due** – Your annual rent payment is determined by your interest in the Heald Point Allotment. Around October 15, BP will pay the rent. Interior should deposit each family member's share into your IIM account. Your share is shown on the attached Individual Distribution Sheet.

**Recent Interior Decision on Attorney Fee Payment Petition** – As was discussed at the Fairbanks meeting last spring, I had a Petition filed with Interior regarding annual payment of these attorney fees owed. The primary request in the Petition was that Interior honor your prior request to automatically pay the attorney fees due each year when the rent is paid by BP. The Interior Department has now issued its Decision [Letter to Mr. Winner]. You should have already received a copy from Interior, but a copy is also enclosed. The Decision granted the Petition's initial issue – that it honor your prior requests to pay the attorney fees automatically each year when BP paid the rents without additional paperwork. The rest of the Decision addresses why Interior didn't like our other justifications.

In granting our main request, the Decision said OST is now agreeing to automatically pay each year's attorney fees owed based on the prior paperwork you filed, unless you ask them not to. Specifically, the Decision at pp. 4-5 stated:

If the Oenga heirs properly filed a Form OST 01-004 with OST that authorizes third party payments to Mr. Givens, OST will process these requests without requiring a newly signed form each year.<sup>10</sup>

<sup>10</sup> It should be noted that at any time, any IIM account holder can modify or rescind the OST 01-004 form which would allow all funds to remain with the IIM account holder. BIA or OST cannot require an IIM account holder to pay any debt that is not under its authority. See 25 C.F.R. § 115.104

In other words, Interior is now agreeing to take care of the attorney fee payment for you in an easy way, if you want. They will automatically pay the attorney fees each year out of your IIM account as soon as the money comes into it from BP, without you having to do anything further.

Specifically, the Decision is saying that if you previously filed a "Form OST 01-004" asking that the attorney fees be automatically paid each year [*which most of you have done*], OST will now honor that request. If at any time you decide you do not want them to automatically make the attorney payments, all you have to do is to let them know and they will stop the automatic payment until you fill out a new Form OST 01-004. I'll address your individual situation in your Individual Distribution Sheet, which is attached.

**How Attorney Fees Owed Can Now Be Paid** – Because of the way Interior worded its Decision, it is appropriate to look at what Interior said about your obligation to pay the attorney fees at Decision, p. 3.

The annual lease payments are made to and are distributed by OST to each eligible allotment owner's respective IIM accounts. As such, it is the responsibility and legal control of the Oenga heirs to pay the annual attorney fees to Mr. Givens as signed by each person in the fee contract/amendments.

There are now 3 ways to address payment of the annual attorney fees.

- **Easy Way** – The easy way to have the attorney fees paid each year is to let Interior do what they say they will do. Since most of you have already signed Form OST 01-004 authorizing automatic payment each year, you will not have to do anything further. For those of you who have not signed the form, or have rescinded the form, I have enclosed new forms. Interior will then automatically make the attorney fee payment for you each year when the money comes in from BP.
- **More Complicated # 1** -- If you want the attorney fees paid by Interior from your IIM account, but do *not* want them to take care of it automatically each year, you could tell Interior to *not* make the attorney fee payments automatically. You would then have to contact OST each year to sign a new Form OST 01-004 authorizing payment for that year.
- **More Complicated # 2** -- If you want to make the attorney fee payments from your *non-trust funds* each year, you could get a cashier's check each year and send it to this office, or have your bank electronically transfer the amount of the attorney fees due for that year to the law firm's bank account.

**No Repeat of the Last 2 Years** -- I'm sure most of you are aware, the way things have gone the last two years has not set well with me. Although some family members acted responsibly and saw that the attorney fees owed were promptly paid, many others did not. Some did *not* pay their fees due in 2013, and delayed attorney fee payments throughout 2014 and into 2015. Scheduled meetings were blown off, excuses were made, games were played, and papers were not signed when provided. It was not until March, 2015 – *17 months after some of the fees were due* – that all family members finally paid all the attorney fees they owed.

Back in 2003 I made a commitment to your family – to take your case without charging a fee unless I won. The family also made a commitment to me – if I won the case, you would pay a percentage fee on *both* 1) the lump-sum settlement and 2) the future rents under the first extension of the lease. You couldn't find any other attorney to take your case. You know I never would have taken the risk of your case without the contingent fee on *both* 1) the lump-sum settlement and 2) the future rents. I lived up to my side of our agreement. I won your case for you. Now it is time for *all* of the family to live up to your side our agreement by promptly paying the attorney fees owed.

There will be *no repeat* of last two years' delays. Prompt payment of attorney fees owed is now easy – just let Interior pay the fees when BP pays the rents each year, or pay them promptly yourself. From now on, if any family member *doesn't pay* the attorney fees owed on time – by October 31 each year - I will simply have a lawsuit filed against that family member for collection of the attorney fees owed.

I sincerely hope things don't come to this. It would be a sad final chapter to what has otherwise been a great victory for all.

**Conclusion** – The rent to be paid by BP this year is \$687,193.54. Your share is shown on the attached Distribution Sheet. Payment into your IIM account will be around October 15, 2015, and I expect payment of the attorney fees owed no later than October 31 each year.

Interior has finally made it easy to have the attorney fees promptly paid when due. As a result of the Petition that was filed, Interior will now honor your prior requests to have the attorney fees paid automatically each year when BP pays the rent.

Most of you have previously filed all the proper forms. You should not have to do anything further. For those of you who have not previously filled out such forms, I have included copies as part of your Individual Distribution Sheet. For those of you whose authorizations are no longer current, I have also included new forms. This is the easy way to deal with things.

There are other more complicated ways of paying the attorney fees owed if you wish. It is fine if you want to go this route, but it does not have to be that complicated. Hopefully, this will be taken care of once and for all, and we can all get on with more productive things.

If you have any questions, please contact me.

Encl: Individual Distribution Sheet & OST Form 01-004 authorizing annual payment  
BP 7/20/2015 rent adjustment letter – incorrect  
Givens email to BP attorney – incorrect rent adjustment  
BP 7/24/2015 rent adjustment letter - corrected  
Interior Petition Decision  
Invoice